

Subject: LARZ NOL ELECTIONS - AMENDED RETURNS

Revenue and Taxation Code (RTC) sections 17276.1 and 24416.1 relate in part to the net operating loss (NOL) deduction of qualified taxpayers conducting a trade or business within the Los Angeles Revitalization Zone (LARZ). The portions of the above referenced sections concerning elections for losses attributable to business activities within the LARZ shall be referred to herein as the "LARZ NOL elections."

In order to treat the NOL as a LARZ NOL, the taxpayer must, in addition to other requirements, affirmatively elect such treatment on the taxpayer's original income or franchise tax return for the taxable or income year, as the case may be, in which the NOL was sustained. Questions have arisen whether the LARZ NOL election may be made on an amended return, or whether it may only be made on an original return. Generally, and except as expressly provided below, all LARZ NOL elections must be made on original returns, as set forth in the applicable statutes.

MAKING ELECTION ON AMENDED RETURN FOR TAXABLE/INCOME YEAR 1992

The Franchise Tax Board (FTB) delayed its distribution of forms and instructions relative to the LARZ elections for the 1992 taxable/income year until August 1993 due to legislation which was pending during the spring of 1993. In order to accommodate taxpayers who were unable to make the LARZ NOL election on their original 1992 returns, the FTB, for taxable and income years beginning in 1992 only, will accept amended returns providing for the applicable LARZ NOL election, provided that the LARZ NOL election criteria has been otherwise fully satisfied.

Affected taxpayers must file an amended return concerning the LARZ NOL election referred to above with the FTB for taxable/income year 1992 no later than June 30, 1994. Amended returns for taxable/income year 1992 filed after June 30, 1994, shall be ineffective with respect to any election concerning the LARZ sections. The amended return, as well as all supporting documents, must be clearly marked (preferably in red) on the top of each respective first page, "AMENDED LARZ ELECTION ". The FTB will accept the above-described amended returns pursuant to its administrative authority set forth in RTC sections 26422 and 19251 (collectively renumbered to 19501 and 19503 effective January 1, 1994).

1993 AND SUBSEQUENT TAXABLE/INCOME YEARS

With respect to 1993 and subsequent taxable/income years, all LARZ NOL elections shall be required to be made on the original return, and amended returns shall be ineffective.

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DRAFTING INFORMATION

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